

REMARKS

Presently pending in this application are claims 1-18. Claims 1, 13, and 18 are independent. In the Office Action dated July 5, 2006, the Examiner rejected claims 1-18 under 35 U.S.C. § 103(a) as being unpatentable over Jones (2002/0120551) and Robertson (5,598,183). Applicant hereby traverses the rejection of claims 1-18 and respectfully requests reconsideration. Applicant respectfully submits that the case is in condition for allowance in view of the prior art.

I. The Proposed Modification Cannot Change the Principle of Operation of a Reference MPEP 2143 VI.

According to MPEP 2143 VI., if the proposed modification or combination of the prior art would change the principle operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. Applicant respectfully submits that based on the proposed modification, the principle operation of Robertson does change, and therefore it is shown that the teaching is not sufficient to render the claims obvious.

Robertson states that “The present invention automatically positions a cursor at predetermined locations of a computer visual display in response to user commands.” Col. 3, lines 31-33. “The present invention is embodied in a system 10 shown in the block diagram of FIG. 1.” Col. 3, lines 51-52. Robertson further states that “the operation of the system 10 may be best illustrated in the flow chart of Fig. 2A, taken in conjunction with the sample screen displays of Figs. 3A to 3D.” Col. 6, lines 25-28.

The operation in Robertson starts with a cursor and one or more controls, such as a “FILE” button. The user selects “a function associated with the FILE button” by positioning the cursor over the “FILE” button and depressing the command entry device. In response to the selection of the “FILE” button, the system 10 stores the current location of the cursor in the return location storage area in step 52.

In step 54, the system 10 alters the screen display “in response to the user selection or activation of a new window.” FIG. 3B shows the altered display and a plurality of controls, which include “NEW,” “OPEN,” and “CLOSE.” Robertson states

that each control has a different function. Col. 6, lines 50-54. The locations of the controls on the display are predefined. In the example of Fig. 3B, the “NEW” button is the default selection.

In step 56, various controls are loaded in the control list. The system 10 sequentially analyzes the controls in the control list to select a location at which the cursor will be positioned. In decision 58, the system 10 determines if the control being analyzed matches a desired style. If the control being analyzed does match the desired style, the result of decision 58 is “YES” and the system 10 gets location data for the selected control in step 66. In step 68, the system 10 positions the cursor at the center of the selected control location on the display.

Robertson illustrates this operation using FIG. 3B, FIG. 3C, and FIG. 3D. In FIG. 3B, the user selects the “FILE” button, and the system 10 automatically positions the cursor at the “NEW” button. In FIG. 3C, the user selects the “CLOSE” button, and the system 10 automatically positions the cursor at the “YES” button.

Applicant respectfully submits that the principle operation of Robertson changes in at least three ways based on the Examiner’s proposed modification.

First, the Robertson reference teaches that a user must first select, with the cursor, a command that alters the contents of the display, before the cursor gets repositioned to a predetermined location. Robertson requires this operation because selection of a command (e.g., selecting “CLOSE” as shown in FIG. 3C) is integral to the next step, which is analyzing the controls in the control list to determine where to place the cursor next (e.g., causes placement at “YES” as shown in FIG. 3D). While the Robertson reference teaches selecting a control first, the reference fails to teach what to do in an instance where the screen updates without a selection (e.g., at a random time or at a time when the user does not first select the location). One can only guess as to what Robertson might do next in that situation. However, the step selection is not integral or necessary to the presently claimed embodiment as it is in Robertson. According to Applicant’s claim 1, when the screen updates, the cursor is placed at a second location that is associated with the same first portion of market information. Applicant respectfully submits that modifying Robertson by removing the step of selection would

principally alter the reference's operation, and therefore, per MPEP 2143 VI., the Robertson teaching is not sufficient to establish the claims *prima facie* obvious.

Moreover, to selectively remove steps taught by Robertson without the suggestion to do so in the references themselves amounts to classic hindsight reconstruction of the claims by selectively picking and choosing elements from the references to arrive at the specified claimed invention. This is explicitly prohibited at MPEP Section 2141.01, for example.

Second, the Robertson reference teaches that in each instance, the cursor is positioned at a location associated with a different function from the previous location. For instance, selecting "FILE" moved the cursor to a location in the altered screen associated with "NEW," which is a different control. Selecting "CLOSE," moved the cursor to a location in the altered screen associated with "YES," which is a different control. Thus, contrary to what the Examiner has stated, Robertson *does not* teach "how cursor location is changed to ensure that the information with which the cursor is associated does not change." Rather, Robertson teaches moving the cursor to a predetermined location associated with information that is different from information associated with the cursor's previous location.

For instance, Applicant's claim 1 calls for "...moving the cursor to a second location associated with the first portion of market information...." If Robertson was modified according to the proposed manner, then selecting "FILE" would cause the cursor to be moved to a second location in the altered screen associated with "FILE." Likewise, selecting "CLOSE" would cause the cursor to be moved to a second location in the altered screen associated with "CLOSE." Such a modification would be nonsensical in view of Robertson's purpose and operation, as it means the user would first select "CLOSE," only to cause the screen to change, and then position the cursor over "CLOSE" again. Nonetheless, making such a modification would call for removing at least steps 56, 58, 60, 62, and 64 from FIG. 2A of Robertson, which all represent an integral part of Robertson's operation. However, Applicant submits that because such a modification would change the principle operation of the reference, then its teaching is not sufficient to establish the claims *prima facie* obvious.

Third, the Robertson reference teaches setting up default positions and positioning the cursor at “predetermined locations.” In other words, Robertson teaches analyzing controls in a control list to select a location at which the cursor will be positioned, and this is based on what the user selected at the first location. Applicant’s claim 1, however, calls for “...moving the cursor to a second location associated with the first portion of market information...,” and as such, there isn’t a need for analyzing controls in a control list, such as performed in Robertson. According to Applicant’s claim 1, the cursor is positioned at a location associated with the first portion of market information before and after the screen update. However, loading and analyzing a control list to determine the location at which the cursor will be placed is also an integral part of Robertson’s operation. Making such a modification would again call for removing at least steps 56, 58, 60, 62, and 64 from FIG. 2A of Robertson, which represent a central feature disclosed in Robertson. Applicant respectfully submits that because such a modification would change the principle operation of the cited reference, then the teaching is not sufficient to render the Applicant’s claims prime facie obvious.

II. All Claim Limitations Must Be Taught or Suggested MPEP 2143.03

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. Applicant respectfully submits that the Robertson/Jones combination still does not teach, at a minimum, the limitation of claim 1 that calls for “...automatically moving the cursor to *a second location associated with the first portion* of market information...” [Emphasis added.]

The Examiner states “Robertson teaches how cursor location is changed to ensure that the information with which the cursor is associated does not change.” Page 9 of the Office Action. However, Applicant respectfully submits that this characterization is wrong. As described above, Robertson actually teaches that the information associated with the cursor *does change* from before and after the screen update. If the Robertson reference didn’t operate that way, the user would simply end up at the same control she was at previously, which would frustrate the purpose and operation of Robertson.

While Applicant acknowledges that a trader prefers to get a desired price, Applicant submits that Jones does not even acknowledge that there is a problem getting that desired price. Indeed, Jones discloses that the system it provides actually makes it easy to set a desired price. For instance, Jones states "...the trader can simply touch the plot of moving stock prices at a desired position to indicate an order....The invention allows the user to do this simply and graphically with a minimum of data entry input from a keyboard." Paragraph 39. Jones does not suggest that there is a problem with choosing a desired price, and Jones does not provide a motivation or suggestion to modify its own system of order entry or to make the proposed modifications to Robertson (which, as stated above, would change the principle operation of Robertson).

Even if Jones identified a problem, which it does not, the references are still void of any teaching or suggestion that would lead one of ordinary skill to make the proposed combination of references and modify their teachings. The Federal Circuit stated, "A person of ordinary skill in the art is presumed to be one who thinks along the line of conventional wisdom in the art and *is not one who undertakes to innovate*, whether by patient and often expensive, systematic research or extraordinary insights, it makes no difference which." [Emphasis Added.] *Standard Oil Co. v. American Cyanamid Co.*, 774 F.2d 448, 454 (Fed. Cir. 1985). As stated in the response filed on April 4, 2006, Jones actually uses a rather conventional way to set an order price. Jones discloses no difficulties or problems with using such a method, but rather Jones speaks of its simplicity. However, the Examiner states that a desire to choose a correct price in Jones would be enough motivation to make the proposed combination and modification. Applicant disagrees and submits that a rather general statement of motivation or desire cannot be enough. Perhaps, such a desire may lead one of ordinary skill to utilize teachings in the prior art, but without hindsight, there is no teaching or suggestion in the prior art that would lead one of ordinary skill to leave convention and arrive at Applicant's presently claimed embodiment, which calls for moving a cursor to a second location associated with the same first portion of market information that was associated with the first location before the update. See, e.g., claim 1.

Thus, Applicant respectfully submits that the Robertson/Jones combination does not teach or suggest all of the limitations of the claim, without the use of impermissible hindsight.

III. Analogous and Nonanalogous Art 2141.01(a) I., II., and V.

Section 103(a) states that obviousness is to be assessed relative to “the art to which the subject matter pertains.” As stated above, Jones provides what it believes to be an easy way to set an order price. Jones does not speak of a problem with setting a desired order price as framed by Applicant. As such, Applicant still questions whether one of ordinary skill in the art would then realize Applicant’s defined problem and look to the teaching of Robertson to improve upon trading interfaces, and in particular, the order parameter setting component of those trading interfaces. Applicant respectfully submits that it was Applicant that provided an improved trading interface in view of the problem defined and set forth by Applicant. For instance, claim 1 calls for “automatically moving the cursor to a second location associated with the first portion of market information, the cursor being moved together with the first portion of market information.” This claimed feature, for instance, can be used to maintain the cursor at a location associated with a price, regardless of when or how the prices on the screen move. Other pending claims include these limitations.

To come to a conclusion that one of ordinary skill would innovate in this same manner by searching out the teachings of Robertson is based on speculation and hindsight. Even if a problem of getting a desired price was defined in the prior art, then Applicant submits that one of ordinary skill would look to the pertinent prior art, which utilizes conventional trading interfaces in which the cursor moved to a price only upon the user’s command. One of ordinary skill may also resort to the use of an order entry ticket in which a desired price is manually entered, or some other prior art mechanism for setting a price. The lack of teaching and vagueness offered by the prior art and the proposed motivation, however, would not cause one of ordinary skill to refer to a reference, such as Robertson, which is void of any reference or teaching to trading

systems (let alone would cause one of ordinary skill to make the purported modification – which as stated previously changes the principle operation of Robertson). Applicant therefore suggests that given the remoteness of the arts and the degree of alteration necessary to adapt the technique, such as described above, that one of ordinary skill would have very little motivation, if any, to consider the Robertson reference.

IV. Teachings Do Not Render the Claims Prima Facie Obvious

In addition to the remarks made in the response filed April 6, 2006, and in summary of the above, the rejection over Robertson and Jones fails for at least the reasons listed below. The rejection does not even set forth a prima facie case of obviousness because (a) the Robertson and Jones references, at the very least, do not teach all of the independent claim limitations (claims 1, 13, and 18 all have similar limitations), and there is no teaching, suggestion, or motivation to make the proposed combination and modification and (b) the proposed modification/combination would change the fundamental principle of operation of Robertson.

Claims 2-18 are patentable for at least the same reasons provided above with respect to claim 1.

Accordingly, Applicant submits that each of these claims is in condition for allowance, and Applicant respectfully requests reconsideration. If the Examiner believes that further dialog would expedite consideration of the application, he is invited to contact the Applicant's Patent Counsel, Mark W. Triplett at (312) 476-1151 or the undersigned attorney/agent.

Respectfully submitted,

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